

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 99-0355 MVE
MOTOR VEHICLE EXCISE TAX
For The Tax Periods: 1997 and 1998**

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ISSUES

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-18-2-1, IC 6-8.1-5-1

The Taxpayer protests the imposition of the motor vehicle excise tax on his 1993 Buick.

STATEMENT OF FACTS

The Taxpayer was assessed Motor Vehicle Excise Tax on his 1993 Buick for the period of December 31, 1996 to September 30, 1998. The Taxpayer filed an Indiana IT-40 Full Year Resident Return in 1997 and 1998. The Taxpayer provided verification of employment in Tennessee up until June 13, 1997. More facts provided as necessary.

I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Indiana Code Section 6-8.1-5-1 specifically provides that notice of a proposed assessment is *prima facie* evidence that the Department's claim for the unpaid tax is valid. It is the burden of the taxpayer to prove that the proposed assessment is wrong. Here, the Taxpayer states that he came to Indiana sometime of July 1997, but returned to Tennessee shortly afterwards because he was unable to find employment. He states that he returned to Indiana approximately in August of 1997 and worked on a part time basis and frequently returned to Tennessee. Although the Taxpayer provided documentation showing he was employed in Tennessee until July 1997, he does not provide any evidence to show that he was not an Indiana resident after this period. In

addition, the Taxpayer filed an Indiana IT-40 Full year Resident Return for 1997 and 1998. By filing an Indiana Full-Year Resident tax return, the Taxpayer has conceded Indiana residency; and if the Taxpayer is correct that he was not an Indiana resident, he would need to re-submit his tax forms for the years in question.

Also, pursuant to Indiana Code Section 9-18-2-1:

- (a) Within sixty (60) days of becoming an Indiana resident, a person must register all motor vehicles owned by the person that:
 - (1) are subject to the motor vehicle excise tax under IC 6-6-5; and
 - (2) will be operated in Indiana.

Therefore, the Taxpayer's protest must respectfully be denied.

FINDING

The Taxpayer's protest is denied.